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NAME:	FAX NO.:	PHONE NO.:	SENT/OPERATOR
Leslie Sai - Courtroom Manager Honorable Manuel L. Real - USDC	808-541-1303		12:31pm 1'00 /lk

FROM: Barbara A. Petrus **PHONE:** (808) 547-5792
RE: John A. Moffett v. SMF Systems Corporation et al. **MATTER NO:** 95595
 Civil No.: CV0300130 MLR/BMK
 Trial Date: September 19, 2005

NUMBER OF PAGES WITH COVER PAGE: 3

Message:

Letter dated September 8, 2005:

“We are in receipt of defense counsel’s letter to the Court dated September 6, 2005....”

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the fax room at (808) 547-5600, ext. 528.***

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September 8, 2005

VIA FACSIMILE

The Honorable Manuel L. Real
c/o United States District Court for the District of Hawaii
300 Ala Moana Boulevard
Honolulu, Hawaii 96813
ATTN: Leslie Sai, Courtroom Manager

**Re: John A. Moffett v. SMF Systems Corporation et al.
Civil No. CV0300130 MLR/BMK
Trial Date: September 19, 2005**

Dear Judge Real:

We are in receipt of defense counsel's letter to the Court dated September 6, 2005 addressing, among other things, potential issues for the pretrial conference in this matter.

Plaintiff respectfully would also like to address several matters in advance of trial. These include:

1. Motions for Summary Judgment. Yesterday we received a copy of the Minute Order of the Court's rulings on the Motions for Summary Judgment. In light of the Minute Order, which reflects a dismissal of "Count 9" of the Complaint (Plaintiff's Complaint only contains Counts 1 through 8) and does not specifically identify the names of the claims, Plaintiff believes there is confusion as to which claims were actually dismissed, and would like to seek clarification either through a formal motion for clarification or through a pretrial conference.

2. Motions in limine. Several of Defendants' motions in limine relate to witnesses, some of whom are on the mainland and need to make travel arrangements. For the sake of their travel planning, an early determination on motions to exclude these witnesses would be helpful.

3. Trial schedule. For witness schedule purposes, we would respectfully ask the Court to give the parties an indication of the anticipated trial schedule. By way of example:

a. Is the trial expected to start on the 19th, or will the Court have other cases to attend to on that Monday?

The Honorable Manuel L. Real

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b. What particular matters will the Court initially take up before jury selection? For example, will the Court address at that time the motions in limine or other matters? How long does the Court allot for such matters?

c. How will the Court conduct jury selection? Will counsel be allowed to directly question potential jurors? How long does the Court allot for jury selection?

d. Witness schedules. There are a few subpoenaed witnesses who are scheduled to be out of town (either on the mainland or in other countries) for work reasons during some or all of the trial. We would like to discuss with the Court and defense counsel how best to address this so we do not have to take these people away from their work duties.

4. Logistical matters for trial. We would like to get the Court's views on whether Power Point, overhead projectors, or the like, will be allowed at trial.

Very truly yours,



Barbara A. Petrus
Donna H. Kalama
LindaLee K. Farm

cc: Lynne T. T. Toyofuku
Nichole K. Shimamoto